

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ERIC WATKINS	§	
VS.	§	CIVIL ACTION NO. 1:11-CV-742
WESTON L., DHO	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff, Eric Watkins, a prisoner formerly confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to *Bivens v. Six Unknown Agents of Bureau of Narcotics and Dangerous Drugs*, against Disciplinary Hearing Officer Weston L.

The Court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends this lawsuit be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as frivolous.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Plaintiff filed objections to the Magistrate Judge’s Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

To the extent plaintiff asserts an equal protection claim, plaintiff must demonstrate that he has been “intentionally discriminated against . . . because of membership in a protected class,” or “has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.” *Nance v. New Orleans & Baton Rouge Steamship Pilots’ Ass’n*, 174 Fed. Appx. 849, 854 (5th Cir. April 10, 2006) (citations omitted). Alternatively, plaintiff may show that a government policy or procedure was selectively forced

against him, by showing that “the government official’s acts were motivated by improper considerations, such as race, religion, or the desire to prevent the exercise of a constitutional right.” *Id.* (citation omitted). Plaintiff has failed to make such a showing of purposeful or intentional discrimination, offering nothing more than conclusory and unsubstantiated allegations. *See Muhammad v. Lynaugh*, 966 F.2d 901, 903 (5th Cir. 1992); *see also McKnight v. Eason*, 227 Fed. Appx.356, 356 (5th Cir. 2007) (holding that plaintiff’s conclusory allegations of racial discrimination at prison were insufficient to state a cognizable equal protection claim) (not selected for publication). Accordingly, this claim should be denied.

ORDER

Accordingly, plaintiff’s objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge’s recommendations.

So **ORDERED** and **SIGNED** this **26** day of **April, 2012**.



Ron Clark, United States District Judge